

# PATENT

Docket No.: DEAV2003/0007 US NP

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

**Uwe Heinelt et. al.**

Examiner: **Stockton, Laura**

Serial No.:

**10/770,654**

Art Unit: **1626**

Filed:

**February 3, 2004**

### *Certificate of Transmission*

Title: **N-Substituted (Benzimidazol-2-yl)phenylamines  
Process for Their Preparation,  
Their Use as a Medicament or Diagnostic  
and  
Medicaments Containing Them**

I hereby certify that this correspondence is being transmitted via EFS-Web to the Commissioner for Patents, Washington, D.C. 20231, on

January 5, 2007

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Brian Pritchett Brian Pritchett

Signature

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Commissioner for Patents  
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Alexandria, VA 22313-1450

## Response to Restriction/Election Requirement Under 35 U.S.C. § 121

Sir:

This is in response to the Office Action dated December 11, 2006, having a response due by January 11, 2006 in the above-identified patent application. It is respectfully requested that the following provisional election, and the remarks be entered in this case.

### ***PROVISIONAL ELECTION:***

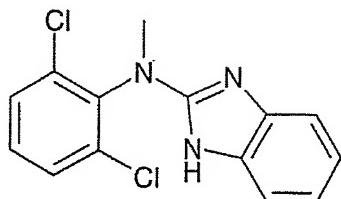
Applicants provisionally elect with traverse the invention Group I, claims 1-3, 12 and 13 drawn to products of formula 1 classified in class 548, subclass 304.4.

### ***ELECTION OF A SUB-SPECIES AND A SINGLE DISCLOSED COMPOUND:***

Applicants herein are required to elect a single disclosed species from the group comprising a member of the platform molecule as recited in claim1. To this end,

Applicants provisionally elect with traverse the species (1H-Benzimidazol-2-yl)(2,6-

dichlorophenyl)methylamine as disclosed in Example 2.



Please note that all of claims 1 to 3, 12 and 13 read on this elected subgeneric species as well as the single disclosed compound as provisionally elected herein.

### Remarks

In the Office Action, the Examiner noted that claims 1 to 13 are subject to restriction. In particular, the Examiner has given a two-way restriction in accordance with 35 U.S.C. 121 as follows:

<i>Inventions</i>	<i>Classification</i>
Group I. Claims 1-3, 12 and 13 drawn to products of formula I.	548/304.4
Group II. Claims 4-11 drawn to methods of using the compounds of formula I.	514/388

As indicated above, through this response, Applicants provisionally elect invention Group I *with traverse*, namely, claims 1-3, 12 and 13 products drawn to products of a chemical compound defined by formula I . Additionally, as requested by the Examiner, Applicants have also provisionally elected with traverse a sub-generic species falling within the scope of Group I of formula I, wherein the species is (1H-Benzimidazol-2-yl)(2,6- dichlorophenyl)methylamine as disclosed in Example 2.